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ages are made within 30 days, the carrier shall not be liable in any event, does not exonerate the carrier from negligence, in violation of Va. Code 1904, § 12941, providing that no contract shall exempt any carrier from liability, and is a reasonable regulation, and the failure to present a claim for damages within the time prescribed relieves the carrier from liability.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 9, Carriers, § 670.]

ALBERT *v.* TIDEWATER RY. CO.

Sept. 12, 1907.

[58 S. E. 575.]

1. Evidence—Parol Evidence—Admissibility—Varying Terms of Contract.—In a suit for the specific performance of a contract binding an owner to convey to a railway company a right of way 50 feet wide on each side of the center line thereof as finally located at \$100 per acre, evidence that the line of the railway had been located prior to the execution of the contract, that the owner knew thereof, and that a portion of the right of way included a part of a right of way previously conveyed by the owner to the company, was admissible to explain the ambiguity in the contract arising from the fact that the two rights of way covered part of the same land, and to show that the company should pay only for the land not previously conveyed.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 20, Evidence, § 2083.]

2. Railroads—Right of Way—Contracts—Construction.—A railway company purchased a right of way and obtained a deed therefor. Subsequently the grantor and the company entered into a contract binding the owner to convey to the company a right of way 50 feet wide on each side of the center line thereof as finally located in consideration of \$100 per acre, and binding the company to reconvey the right of way previously conveyed to it, and providing that it should receive a specified credit for such reconveyance. The parties knew at the time of the execution of the contract that the location of the right of way therein referred to covered about half of the right of way conveyed by the deed, and that the company would acquire about 10 acres of new land and would abandon about 8 acres of the right of way conveyed by the deed. Held, that the company was required to pay \$100 per acre for the new land and reconvey that portion of the old right of way not used, for which it was entitled to the specified credit.